

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

GRACE CHEN and DANIELLE
VILLARREAL, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

HILLSDALE COLLEGE,

Defendant.

Case No. 1:23-cv-1129-JMB-PJG

District Judge: Jane M. Beckering
Magistrate Judge: Phillip J. Green

ORAL ARGUMENT REQUESTED

**DEFENDANT HILLSDALE COLLEGE'S MOTION TO STRIKE
OR DISMISS CLASS ALLEGATIONS FROM AMENDED COMPLAINT**

ORAL ARGUMENT REQUESTED

Defendant Hillsdale College moves to strike or dismiss the class allegations from Plaintiffs' Amended Complaint pursuant to Fed. R. Civ. P. 23(c).

As explained in the accompanying brief, which is incorporated by reference, the Court should strike or dismiss the class allegations, which are legally defective in multiple respects. First, the Amended Complaint shows that Ms. Chen's and Ms. Villareal's claims intrinsically are individual claims arising from separate alleged personal injuries, so they cannot satisfy Rule 23(a) for any claim. Second, the individualized inquiries needed to prove, and the extremely personal and sensitive nature of, the pleaded claims precludes the class from satisfying the predominance and superiority requirements of Rule 23(b)(3). Third, a risk of harm alone is not actionable under any of the theories alleged, so the proposed class consists almost exclusively of uninjured class members, which renders the proposed class definition

fatally overbroad and uncertifiable. And fourth, the purported irreparable harm to Ms. Chen and the putative class is neither concrete nor imminent, meaning that a Rule 23(b)(2) class is unavailable. These legal defects are inherent in the class allegations and cannot be remedied by discovery or other factual development.

WHEREFORE, Hillsdale College respectfully requests that this Court strike the class allegations from Plaintiffs' Amended Complaint.

Dated: February 5, 2024

Respectfully submitted,

Allyson N. Ho
GIBSON, DUNN & CRUTCHER LLP
2001 Ross Avenue, Suite 2100
Dallas, TX 75201
(214) 698-3233
(214) 571-2971 (fax)
aho@gibsondunn.com

s/ Peter W. Herzog III
Peter W. Herzog III
WHEELER TRIGG O'DONNELL LLP
One Metropolitan Square
211 N. Broadway, Suite 2825
St. Louis, MO 63102-2723
(314) 326-4129
(303) 244-1879 (fax)
pherzog@wtotrial.com

Sarah L. Nirenberg
Carey A. DeWitt
BUTZEL LONG, P.C.
201 West Big Beaver Rd., Suite 1200
Troy, MI 48084
(248) 258-2919
(248) 258-1439 (fax)
nirenberg@butzel.com

*Counsel for Defendant
Hillsdale College*